



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/822,088 | 04/08/2004 | Donald Mason | MASO-005 | 2214 |

7590 03/17/2006

Michael S. Neustel
Suite No. 4
2534 South University Drive
Fargo, ND 58103

EXAMINER

ARYANPOUR, MITRA

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3711

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/822,088 | Applicant(s) MASON, DONALD | |
| | Examiner Mitra Aryanpour | Art Unit 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-9,12,13,17 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 9, 12, 13, 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Der Hoeven (5,425,691).

Regarding claim 1, Van Der Hoeven discloses an exercise system, comprising: a base (slipper top surface 76) usable by a user as a slide board (sliding web 50) in a sliding position; and a pair of platforms (half-shells 45, 46) adjustably positionable upon the base (76) in either a plurality of angled plyometric positions or a horizontal stepping box position. As best seen in figures 20-23 the pair of rigid bumpers (153, 154) have angled surfaces of slippery material and are connected to the half-shells (155, 156). The optimum angle is between 18 to 20 degrees. In this embodiment the bumper/half-shell combinations are releasably mounted on top of the sliding web (50). A number of apertures have been provided to allow for adjusting the distance between the two bumper/half-shell combinations. It should be noted that the preamble, *the hockey training system*, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 2, Van Der Hoeven shows the base (76) includes an outer perimeter defining a floor (see figure 7). The floor (76) is comprised of a slipper material comprised of a plastic (see column 4, lines 33-40).

Regarding claims 5 and 6, Van Der Hoeven shows the pair of platforms (155, 156 in figure 20) each includes a pair of adjustable outer legs (the broadest reasonable interpretation of *outer legs* would include *rigid bumpers 153 and 154*) thereby angling the pair of platforms inwardly in a plyometrics position and the pair of platforms each includes a pair of inner legs to create a stepping box position (the broadest reasonable interpretation of *inner legs* would include *bottom walls 59*). See column 5, lines 57-68 and column 6, lines 1-25.

Regarding claim 7, Van Der Hoeven shows the legs are attachable to the base by a plurality of pins (the broadest reasonable interpretation of pins would include groove structure 165; see column 6, lines 10-15) extending through the base and a lower end of the legs.

Regarding claim 8, Van Der Hoeven shows the base (76) includes an outer perimeter defining a floor (see figure 1), a plurality of angled slots (see figure 20, not identified with a reference character) within an interior portion of the outer perimeter, and a pair of end members (153, 154) removably positionable within the angled slots for defining a sliding area upon the floor for a user performing a sliding exercise.

Regarding claim 22, Van Der Hoeven shows a training system comprising: a base (76) usable by a user as a slide board (50) in a sliding position; a pair of platforms (half-shells 45, 46) adjustably positionable upon the base (76) in either a plurality of angled plyometric positions or a horizontal stepping box position (best seen in figures 20-23 the pair of rigid bumpers (153, 154) have angled surfaces of slippery material and are connected to the half-shells (155, 156); in

Art Unit: 3711

this embodiment the bumper/half-shell combinations are releasably mounted on top of the sliding web 50); and at least one cover member (45 and/or 46) positionable upon an upper portion of the base (76) for a user to stand upon; and a shooting member (the sliding web 50 can also be used as a shooting member) for allowing a user to practice shooting hockey pucks upon while standing upon the at least one cover member (45 or 46), wherein said shooting member has an upper slipper surface (the floor 76 is comprised of a slipper material comprised of a plastic; see column 4, lines 33-40).

Regarding claim 23, note the rejection of claim 22. Van Der Hoeven further shows the shooting member has an outer edge (the base 76 includes an outer perimeter defining a floor; see figure 1).

Regarding claim 24, note the rejection of claim 22. Van Der Hoeven further shows the at least one cover is a pair of covers (45 and 46).

Allowable Subject Matter

3. Claims 9, 12, 13, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 21 is allowed.

Response to Arguments

5. Applicant's arguments filed 27 December 2005 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a platform that is adjustable in either multiple angled or either multiple angled or horizontal

Art Unit: 3711

positions; and one could not safely utilize the invention as taught by Van Der Hoeven in a plyometric exercise) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Van Der Hoeven shows the bumper/half-shell combinations are adjustable with respect to the slide board. There is no requirement in the claims that there be “multiple angled platforms” but merely that there be a plurality of angled plyometric positions. By adjusting the bumper/half-shell combinations a plurality of angled positions are provided.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3711

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13 March 2006



MITRA ARYANPOUR
PRIMARY EXAMINER